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United States
Circuit Court of Appeals

For the Ninth Circuit. /

CHIN WING,

Appellant,

vs.

JOHN D. NAGLE, Commissioner of Immigration,
Port of San Francisco,

Appellee.

Transcript of Record.

Upon Appeal from the United States District Court for the
Northern District of California, Southern Division.

FILED

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F. F. O'BRIEN,
CLERK

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[Clerk's Note: When deemed likely to be of an important nature, errors or doubtful matters appearing in the original certified record are printed literally in italic; and, likewise, cancelled matter appearing in the original certified record is printed and cancelled herein accordingly. When possible, an omission from the text is indicated by printing in italic the two words between which the omission seems to occur.]

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NAMES AND ADDRESSES OF ATTORNEYS
OF RECORD.

For Petitioner and Appellant:

STEPHEN M. WHITE, Esq., 576 Sacramento
St., San Francisco, California.

For Respondent and Appellee:

UNITED STATES ATTORNEY, San Fran-
cisco, Calif.

In the Southern Division of the United States Dis-
trict Court, in and for the Northern District of
California, Second Division.

No. 20,464-S.

In the Matter of CHIN WING, on Habeas Corpus.
No. 29394/3-23; ex SS. "PRESIDENT
CLEVELAND," July 23, 1930.

PETITION FOR WRIT OF HABEAS COR-
PUS.

To the Honorable, the Southern Division of the
United States District Court, for the Northern
District of California:

The petition of Louie Yee Hong respectfully
shows:

I.

That Chin Sung is a Chinese person who was
born in the United States and subject to the juris-
diction thereof.

II.

That Chin Sung has resided continuously in the United States since his birth, save for the following trips to China: departed in 1885, and returned in 1898; departed in 1905, and returned in 1906; departed in January, 1911, and returned in April, 1912; departed in August, 1920, and returned in September, 1922; departed in June, 1928, and returned in July, 1930; that incident to his departure and return from each of said trips, he was examined by the United States Immigration authorities as to citizenship and, as a result, it was found and conceded by the said immigration authorities, on each of the occasions, aforesaid, that he was a native-born citizen of the United States by virtue of having proved, on each of said occasions, that he was born in the United States and subject to the jurisdiction thereof. [1*]

III.

That, while in China between the years 1885 and 1898, Chin Sung married a Chinese by the name of Lok Shee; that, on November 5, 1911, in China, there was born to Chin Sung and to his wife, Lok Shee, a son by the name of Chin Wing.

IV.

That on the 23d day of July, 1930, the said Chin Wing arrived in the Port of San Francisco, California, and, thereupon, applied to the United States immigration authorities for admission into the United States; that his application for admission

*Page-number appearing at the foot of page of original certified Transcript of Record.

was based upon the ground that he is a citizen of the United States, in that he is the foreign-born son of a native-born citizen of the United States (Section 1993 of Revised Statutes).

V.

That the application for admission of the said Chin Wing was heard by a Board of Special Inquiry, which was convened by the Commissioner of Immigration for said port and, as a result, the said Board of Special Inquiry found that Chin Wing was not a citizen of the United State for the reason that he was not the son of his alleged father, Chin Sung, but that the said Board of Special Inquiry found and conceded that the alleged father was a native-born citizen of the United States; that an appeal was taken from the decision of the Board of Special Inquiry to the Secretary of Labor with the result that the Secretary of Labor affirmed the excluding decision of the Board of Special Inquiry and *order* the said Chin Wing deported to China.

VI.

That the said Chin Wing is now in the custody of John D. Nagle, as Commissioner of Immigration for the Port of San Francisco, at Angel Island, County of Marin, State and Northern District of California, Southern Division thereof, and the said John D. Nagle, [2] acting under the orders of the Secretary of Labor, has given notice of his intention to deport the said Chin Wing to China on the SS. "President Pierce," which sails from the

Port of San Francisco, California, on the 19th day of December, 1930.

VII.

That the Board of Special Inquiry and the Secretary of Labor, in excluding him from admission into the United States and in holding him in custody so that his deportation may be effected, are acting in excess of the authority and power committed to them by the statutes in such cases made and provided for and are unlawfully confining, imprisoning and restraining the said Chin Wing, hereinafter referred to as the "detained" in each of the following particulars, to wit:

1. That, at the hearing of the detained before the Board of Special Inquiry, there were produced, as witnesses in his behalf, his alleged father, Chin Sung, and his alleged prior landed brother, Chin Tong, and that these witnesses testified in agreement with each other and with the detained, as to the following matters and things: that the detained is named Chin Wing, that he was born on November 5, 1911, at Lan On Village, Sun Ning District, China; that the father of the detained is named Chin Sung, that his marriage name is Chin Ngee Moon, that he is 49 years old and that he resides at Pocatello, Idaho; that the father of the detained was married twice, that his wife, who is the mother of the detained, was named Lok Shee, that she was a native of Wong Poon Lau Village, Sun Ning District, China, that she died at Lan On Village on December 1, 1919, that she is buried in Hai Ngai Hill, that her grave is not marked by

any stone or monument; that Wong Poon Lau Village is located about 4 or 5 lis (about 1 and one-half mile) west of Lan On Village; that Hai Ngai Hill is located a little over 1 li (about $\frac{1}{3}$ of mile) east of Lan On Village; that the detained's father's second wife is named [3] Lok Shee, that he married Lok Shee in November, 1920, that she has natural feet, that she is 29 years old and she is living at Lan On Village; that the detained's father had 3 sons by his first wife and that these sons are: Chin Tong, 32 years old, who is residing at Denver, Colorado, who first came to the United States in 1912 and who has since made one trip to China; Chin Fong, 25 years old, who first came to the United States about 7 or 8 years ago, who thereafter returned to China and who is now residing at Canton City, where he is attending school; Chin Wing, 20 years old, who is the detained; that the detained's father had 2 sons by his second wife, that these sons are: Chin Gay, about 10 years old, and Chin Yee, about 2 years old, both of whom are living with their mother at Lan On Village, China; that the detained's oldest brother Chin Tong was married at Lan On Village, China, in 1918, to Lee Shee, who is 27 or 28 years old, who has natural feet and who is living at Lan On Village; that one son, Chin Wen, about 12 years old, has been born to Chin Tong and his wife, that this son is living with his mother at Lan On Village; that Chin Tong's marriage name is Chin Eng How; that the detained's second brother, Chin Fong, was married at Lan On Village, China,

in May, 1926, to Toy Shee, 24 or 25 years old, who has natural feet and who is living at Canton City with her husband; that 2 children, Chin Poy Chong, about 3 years old, and Chin Poy Foo, about 2 years old, have been born to Chin Fong and his wife, that these children are living with their parents at Canton City; that Chin Fong's marriage name is Chin Min Sen; that the detained was married at Lan On Village, Sun Ning District, China, on January 16, 1929, to Lee Shee, who is about 19 years old, who has natural feet and who is living at Lan On Village; that no children have been born to the detained and his wife; that the detained has no paternal uncles or aunts; that the paternal grandfather of the detained was named Chin Tan Yet, that he died before the detained was born; that the [4] paternal grandmother of the detained was named Louie Shee, that she had bound feet, that she died at the age of 70 years at Lan On Village, in July, 1928; that the paternal grandparents of the detained are buried under one mound at Hai Ngai Hill; that there is a stone, which is about 9 inches high and about 8 inches wide, upon which there appears the inscription "Chin Tan Yet Foon Moo," marking their graves, that these graves are about 6 or 7 jungs (60 or 70 feet) distant from the grave of the detained's mother; that the detained has two maternal uncles and one maternal aunt; that the uncles are: Lok Doon, who is in England and Lok Koon, who is in Shanghai; that his maternal aunt is married to a Louie family man; that the detained has been attending

school since 1926 in Sun Ning City, which is located about 2 pos (about 6 miles) south of Lan On Village, that he quit attending school there at the end of last year (1929), that he never attended school at Lan On Village, except for a few days about five years ago; that his school at Sun Ning City had two vacations yearly, one in the summer-time for about 3 weeks and one at New Year's time for about 5 weeks, that the detained always spent his vacations at home; that when the detained's father arrived at home in 1928 on his last visit to China, the detained was at school in Sun Ning City, that the detained came home about 4 or 5 days after the arrival of his father and that he returned to school after remaining at home for about one day; that the detained's second brother was attending school at Canton City when his father arrived home on his last visit, that his brother, Chin Fong, in company with his family came home about 6 or 7 days after the father's arrival, that Chin Fong and his family remained at home for 2 or 3 days and then returned to Canton City; that during the detained's father's last visit to China between 1928 and 1930, the detained, in company with his father, visited the graves of the detained's paternal grandparents and of the detained's mother; that the visits [5] were made in the 3d month of 1929 and in the 3d month of 1930; that, on the occasion of the last visit to the graves, the graves of the paternal grandparents were visited first and that a hoe was taken along to clean the graves; that during the detained's father's last visit to China, the detained's

second brother, Chin Fong, in company with his family, made two visits at home, that the first visit was made during the New Year's time of 1928 and the second visit was made during the 12th month of last year (1929), that, on each visit, Chin Fong and his family remained for about one month; that the detained's oldest brothers, Chin Tong and Chin Fong, had attended school in the Oon Nook School in Lan On Village, that this school is located in the Ngee Din Ancestral Hall, which stands by itself at the head of the village; that Lan On Village, where the detained and his brothers were born and have lived, contains about 60 houses, which are arranged in 10 rows, that there are two ancestral halls in the village, one at the head and one at the tail, that there are also three watch-towers in the village; that the detained's house is the 4th in the 3d row counting from the tail or west of the village, that this house was erected in 1923, that it is one story high, that it is built of adobe, that it has tile floors in all rooms, that it has five rooms, which are two bedrooms, two kitchens and a parlor, that it has an open court, which is paved with stone, that it has two outside doors, the large door of which faces east and the small door of which faces west, that in each bedroom there is a window protected by iron bars and wooden doors, that there is a double skylight in each bedroom and a single skylight in each kitchen, that the skylights are covered by glass, that there is a loft in each bedroom and a loft in the parlor, that there is an ancestral tablet kept on the loft in the parlor, that the parlor is

furnished with a table and 5 or 6 stools, that there are 4 chairs in the house, that there is a bedroom partitioned off the parlor, that there [6] are no photographs hanging on the walls of the house, that there is no clock of any kind in the house; that the detained's family owns a black-tailed dog, that this dog has been owned for about 4 years, that the family had this dog prior to the detained's father's last visit to China; that the house, in which the detained's family formerly lived was located on the same lot that the present house is located, that the old house was torn down in 1923, that it was a one-story adobe house with dirt floors throughout; that the row, in which the detained's house is located, contains 6 houses, that Chin Sim occupies the 6th or last house in the row, that the widow of Chin Bing Lim lives in the 3d house of the row, that she has one daughter, who is married, that Chin Kee Shuck lives in the 5th house, that he is at present in the United States, that he has a wife and two sons, that the sons are: Chin Chung You, about 20 years old, and Chin Ock Sim, about 13 or 14 years old, that Chin Go lives in the house opposite the large door of the detained's house, that he is now in England, that he has a wife, one son and one daughter, that the son is Chin Seung Kew, about 20 years old, that the daughter is Chin Juck, about 20-odd years old and married, that Chin Suey Tong lives in the house in front of the detained's house; that Chin Suey Tong has one son, who is Chin Yook Hong; that the house opposite the small door of the detained's house is empty; that during the de-

tained's father's last visit to China, the detained's father, the detained's stepmother and the detained's half-brother, Chin Gay and half-sister, Chin Yee, occupied the parlor of the house, that Chin Tong's, the detained's oldest brother, family occupied the bedroom on the large door or east side of the house, that the detained and his wife occupied the bedroom on the small door side, that, prior to his marriage, the detained's second brother, Chin Fong, and the latter's family occupied the small door bedroom, that, prior to her death, the detained's paternal grandmother occupied the parlor; that [7] the detained's father owns a watch-tower in the home village, that this tower is made of concrete, that it is three stories high, that there are two small rooms on each floor, that this tower was built in 1926 for protection against bandits; that when the detained's second brother, Chin Fong, and the latter's family visited the home village in 1928 and 1929, they occupied rooms in the watch-tower; that the detained's family usually did its marketing at Ai Gong Market, that the Gong Ah Store in this market was usually patronized, that this store was operated by Ing Heung; that the family sometimes did its marketing at the Chin Bin Market; that Ock Ching Market is also located near the detained's home village; that the village people held a pork distribution every year at New Year's time in one of the ancestral halls; that the village has a fish pond in front, that there is a small stream of water in front of the village about one li distant, that there is no wall around the village; that Chin Wee

Foo, Ong Kay Jew and Chin Sing Him, were the names of persons who taught school in the home village; that the detained was accompanied to the United States by his father, that they left the home village together to proceed to the United States at about 7 A. M., that they walked from the village to Chin Bin Railway Station, which is located about 2 lis (about $\frac{2}{3}$ of mile) west of the village, that they took a train at Chin Bin Railway Station for Bok Gai Market, where they changed to a steamer for Hongkong, that they arrived at Hongkong at about 11 P. M. of the same day, that they went ashore immediately and took headquarters at Loon Chung Hai Company on Shung Woon Street, that Yim Hip was the manager at that place, that they remained in Hongkong for 17 or 18 days before boarding a steamer for the United States.

2. That, at the hearing before the Board of Special Inquiry, there were introduced in evidence all the immigration records pertaining to Chin Sung, the father of the detained, and containing [8] all of the statements made by the said Chin Sung to the immigration authorities on the occasion of his every appearance before them; that the said records disclose that when the said Chin Sung returned to the United States in April, 1912, from a temporary visit to China, he made a sworn statement to the immigration authorities that he had a son by the name of Chin Wing, who was born on November 5, 1911, which name and birthdate corresponds with the name and birthdate of the detained, and that, thereafter, as disclosed by the said

records, the said Chin Sung claimed to have a son, who bears the same name as the detained, and who was born on the same date as claimed for the birth-date of the detained, on the following occasions: in April, 1912, incident to the application for admission to the United States of his oldest son, Chin Tong; in August, 1920, incident to his departure from the United States for a temporary visit to China; in September, 1922, incident to his return to the United States; in September, 1922, incident to the application for admission to the United States of his second son, Chin Fong; in June, 1928, incident to his departure from the United States for a temporary visit to China; in July, 1930, incident to his return to the United States.

3. That, at the said hearing before the Board of Special Inquiry, there were introduced in evidence all the immigration records pertaining to Chin Tong, the oldest prior landed alleged brother of the detained; that these records disclose that the said Chin Tong, incident to his application for admission to the United States in April, 1912, made a sworn statement to the immigration authorities that he had a brother who bears the same name as the detained and whose age corresponds with that of the detained; that the said records further disclose that the said Chin Tong, incident to the application for admission to the United States in September, 1922, of his brother, Chin Fong, again made a sworn statement to the immigration authorities that he had a brother, who bears the same

name as the detained and whose age corresponds with that of the detained. [9]

4. That, at the hearing before the Board of Special Inquiry, there were introduced in evidence all the immigration records relating to Chin Fong, the second prior landed alleged brother of the detained; that the said records disclose that the said Chin Fong, incident to his application for admission to the United States in September, 1922, made a sworn statement to the immigration authorities that he had a brother, who bears the same name as the detained and whose age corresponds with that of the detained.

5. That, at the said hearing before the Board of Special Inquiry, the detained personally identified Chin Sung, his alleged father, as his father and the said Chin Sung personally identified the detained as his son; that, at the said hearing, there were exhibited to the detained photographs from the immigration records of Chin Tong and Chin Fong, the prior landed alleged brothers of the detained, and the detained identified the said photographs as those of his brothers, Chin Tong and Chin Fong; that there was exhibited to the said Chin Tong, the oldest prior landed alleged brother of the detained, a photograph of the detained and the said Chin Tong identified the said photograph as that of his brother, the detained.

6. That the examining inspector, who questioned Chin Tong, the oldest prior landed brother of the detained, made the following report upon the testimony of the said Chin Tong:

“Office of District Director
Denver, Colorado.

No. 6516/6-B.

September 17, 1930.

U. S. Commissioner of Immigration,
San Francisco, Calif.

Reference being had to your file No. 29394/3-23, and your letter of the 11th. instant, with which you transmitted files in the case of the application of Chin Wing, for admission as the son of Chin Sung, a native, with the request that statements be taken from the alleged brother of Chin Wing, namely, Chin Tong, at Denver, Colo., be advised that such statement was taken and three copies of same are transmitted herewith, [10] together with the files transmitted with the case, Nos. 29394/2-26, 12017/29106, 16338/6-9 and Seattle files R. S. 15551 and R. S. 1280.

The witness making the inclosed statement speaks English, seems to know considerable about the applicant, or else has been coached very thoroughly as to affairs in China in the Lan On Village, and was not at all embarrassed by the questions, nor did he seem at all non-plussed by any of the questions asked.

W. R. MANIFIELD,
District Director of Immigration, Denver Colorado.”

That your petitioner alleges that the fact that the detained's alleged father, Chin Sung, was in China at a time to render possible his paternity to the detained, having been in China between the years 1911 and 1912 and the detained having been born

on November 5, 1911, the fact that the detained, his alleged father and his prior alleged brother, Chin Tong, have testified in agreement upon all matters of family relations, family history, the principal and minor events of family life, the description of the village in China where the detained was born and has lived, the conditions in the village, the description of the family home and as to a countless number of other matters and things, both material and immaterial, the fact that the alleged father and the prior landed alleged brothers, Chin Tong and Chin Fong, of the detained have consistently claimed a boy of the name and age of the detained as a member of their family, the fact that there was mutual identification between the detained and his alleged father, the fact that the detained identified his prior landed alleged brothers from photographs of these brothers contained in the immigration records, the fact that the oldest prior landed alleged brother of the detained identified the detained from a photograph exhibited to him, established to a reasonable certainty that the relationship of father and son exists between the alleged father and the detained; that the said immigration authorities, in [11] denying the existence of the said relationship, have arbitrarily rejected the aforesaid evidence establishing the existence of the said relationship and have thereby acted manifestly unfair and have, as a result, denied the detained the full and fair hearing to which he was and is entitled.

7. That the said immigration authorities, in denying the existence of the relationship of father

and son between the alleged father and the detained, have urged certain testimonial discrepancies which are contained in the findings of the Board of Special Inquiry, which findings are filed herewith under Exhibit "A," and which findings are hereby expressly referred to and made a part of this petition with the same force and effect as if set forth in full herein; that your petitioner alleges that the alleged testimonial discrepancies, as urged by the Board of Special Inquiry, are not unreasonable, but that the same are the probable result of honest mistake, rather than deliberate error or falsehood on the part of any of the witnesses; that all the testimony, upon which all of the said testimonial discrepancies are predicated, is narrated in the brief of counsel which brief was filed in behalf of the detained when the case of the detained was pending before the Secretary of Labor upon appeal from the adverse decision of the Board of Special Inquiry; that the said brief shows that all of the said testimonial discrepancies are subject to reasonable explanations; that the said brief is filed herewith under Exhibit "B" and is hereby expressly referred to and made a part hereof with the same force and effect as if set forth in full herein; that the said immigration authorities, in denying the existence of the claimed relationship upon so-called testimonial discrepancies, which are not unreasonable or which do not show that the witnesses have given false testimony, but which discrepancies are subject to a reasonable explanation, as disclosed by the brief filed here-

with, have acted manifestly unfair and have denied the detained the full and fair hearing to which he was and is entitled. [12]

VIII.

That the detained is in detention as aforesaid and for said reason is unable to verify this petition; that Chin Sung, the father of the detained, is at Pocatello, Idaho, where he resides, and for said reason is unable to verify this petition upon his own behalf or in behalf of the detained; that Chin Tong, the prior landed alleged brother of the detained, is at Denver, Colorado, and for said reason is unable to verify this petition; that all other relatives of the detained are in China; that your petitioner is the next friend of the father of the detained and of the detained available to verify this petition, by reason of which your petitioner verifies this petition, but for and as the act of the detained and of his father.

WHEREFORE, your petitioner prays that a writ of habeas corpus issue herein as prayed for, directed to the said Commissioner commanding and directing him to hold the body of the said detained within the jurisdiction of this Court, and to present the body of the said detained before this Court at a time and place to be specified in said order, together with the time and cause of his detention, so that the same may be inquired into to the end that the said detained may be restored to his liberty and go hence without day.

Dated at San Francisco, California, December 19, 1930.

STEPHEN M. WHITE,
Attorney for Petitioner. [13]

State of California,
City and County of San Francisco,—ss.

Louie Yee Hong, being first duly sworn, deposes and states as follows:

That your affiant is the petitioner in the foregoing petition; that the same has been read and explained to him and he knows the contents thereof; that the same is true of his own knowledge except as to those matters which are therein stated on his information and belief; and as to those matters he believes it to be true.

LOUIE YEE HONG.

Subscribed and sworn to before me this 18th day of December, 1930.

[Seal] STEPHEN M. WHITE,
Notary Public in and for the City and County of
San Francisco, State of California.

[Endorsed]: Filed Dec. 19, 1930. [14]

[Title of Court and Cause.]

ORDER TO SHOW CAUSE.

Good cause appearing therefor, and upon reading the verified petition on file herein,—

IT IS HEREBY ORDERED that John D. Nagle, Commissioner of Immigration for the Port

of San Francisco, appear before this Court on the — day of January, 1931, at the hour of 10 o'clock A. M. of said day, to show cause, if any he has, why a writ of habeas corpus should not be issued herein, as prayed for, and that a copy of this order be served upon the said Commissioner, and a copy of the petition and said order be served upon the United States Attorney for this District, his representative herein.

AND IT IS FURTHER ORDERED that the said John D. Nagle, Commissioner of Immigration, as aforesaid, or whoever, acting under the orders of the said Commissioner or the Secretary of Labor, shall have the custody of the said Chin Wing, or the Master of any steamer upon which he may have been placed for deportation by the said Commissioner, are hereby ordered and directed to retain the said Chin Wing, within the custody of the said Commissioner of Immigration, and within the jurisdiction of this Court until its further order herein.

Dated at San Francisco, California, December 19th, 1930.

A. F. ST. SURE,
United States District Judge.

[Endorsed]: Filed December 19, 1930. [15]

[Title of Court and Cause.]

APPEARANCE OF RESPONDENT AND NOTICE OF FILING EXCERPTS OF TESTIMONY FROM THE ORIGINAL IMMIGRATION RECORD.

To the Petitioner in the Above-entitled Matter, and to Stephen M. White, His Attorney:

PLEASE TAKE NOTICE that the respondent hereby appears in the above-entitled matter and will, upon the hearing on the order to show cause, rely upon certain excerpts of testimony from the original immigration record additional to the portions of such records which are set out in the petition for writ of habeas corpus herein, a copy of such additional excerpts being annexed hereto. Please examine same prior to the hearing on the order to show cause.

Dated: March 9, 1931.

GEO. J. HATFIELD,
United States Attorney,
(Attorney for Respondent). [16]

[Title of Court and Cause.]

RESPONDENT'S MEMORANDUM OF EXCERPTS OF TESTIMONY FROM THE ORIGINAL IMMIGRATION RECORD.

The witnesses herein are:

CHIN WING, the applicant, claims birth on November 5, 1911, and was never in the United States.

CHIN SUNG, alleged father of the applicant, age 49 years, born in the United States but was in China from 1885 to 1889, from 1905 to 1906, from 1910 to 1912, from August, 1920, to September, 1922, and from June, 1928, to July, 1930.

CHIN TONG alleged brother of the applicant, born in 1899, first came to the United States in April, 1912, and was back in China from December, 1917, to July, 1919.

The applicant has been denied admission to the United States for failure to establish satisfactorily that he is the son of Chin Sung.

There is set forth below, from the original immigration record, some of the conflicting testimony.

I.

CHIN SUNG testified, in connection with the present application, on September 4, 1930, as follows:

Q. "Has this applicant resided continuously in LAN ON VILLAGE from the time of his birth until you brought him to this country?"

A. Yes, except during the last few years when he has been attending school at SUN NING CITY. He quit school at the end of last year."

(Immig. Record 55735/639, p. 16.) [17]

Q. "When you arrived home in China on your last trip, where did you first see this applicant?"

A. About three days after I arrived home. He was attending school at SUN NING CITY.

Q. How did he happen to come home about three days after your arrival?

A. He was told to come home, by a letter written by me.

Q. How far and in what direction is SUN NING CITY from your village?

A. About 3 pos southwest.

Q. To what address did you send that letter notifying the applicant to come home?

A. I sent it to him in care of the WONG SHEE SCHOOL.

Q. Was he living at that school?

A. I do not know, but he was attending that school at that time.

Q. Do you know what year he first started to attend that school in SUN NING CITY?

A. I do not remember.

Q. Did he ever attend any other school?

A. Yes, the OON MOOK SCHOOL, not far from the head of my village.

Q. Has he ever attended any other school besides these two you have mentioned?

A. Not to my knowledge.

* * * * *

Q. At what age did this applicant first start school?

A. He started at either 7 or 8 years of age. I was in this country when he started to go to school."

(Id., pp. 17 and 18.)

Q. "Did this applicant ever attend school with you son CHIN FANG?

A. I do not think so.

Q. Was there more than one school in the home village? A. No, just one.

Q. Is that school held in the ancestral hall?

A. Yes, in the NGEE DIN Ancestral Hall. The school is called OON MOOK.

Q. You brought CHIN FANG to this country the first time, did you not? A. Yes.

Q. Was he then attending school at the NGEE DIN Ancestral Hall? A. Yes.

Q. Was this applicant CHIN WING then attending school?

A. Yes, at the same school, OON MOOK. I have forgotten whether my second son every attended school with the applicant or not, because my second son CHIN FANG also attended school in GONG MOON CITY before he first came to the U. S.

* * * * *

Q. You brought him to this country in CR.-11 (1922). Was that the year you have in mind?

A. He did not go to school in CR.-11 (1922). It was in CR.-10 (1921)."

(Id., p. 20.)

and on September 5, 1930, as follows: [18]

Q. "How do you know this applicant first started to school when he was 7 or 8 years of age?

A. I do not know for certain. I merely guessed at that.

Q. During your visits that you made to

China was this applicant actually attending school in the home village?

A. Yes, except on my last trip, when he was attending school at SUN NING CITY.

Q. You were in China on your second last trip from 1920 to 1922. During that entire period of time did the applicant attend school in the home village? A. Yes.

Q. At that time was there only one school held in your village? A. Yes, just one.

Q. And that was the OON MOOK SCHOOL? A. Yes.

Q. Did the applicant have a summer vacation in that school? A. Yes.”

(Id., p. 33.)

CHIN TONG testified on October 11, 1922, in connection with the application of an alleged brother for admission, as follows:

Q. “When did you come to the United States the first time?

A. April 24, 1912, ex. S.S. “Persia.”

Q. How many times did you go to China?

A. One trip—departed Dec. 22, 1917, and returned July 16, 1919.

* * * * *

Q. What was your brother, Chin Wing, doing when you were last in China?

A. Going to school.”

(Immig. Record 12017/29106, p. 12.)

CHIN WING testified in connection with the present application, as follows:

Q. "How long did you attend school in SUN NING CITY? A. 3 or 4 years.

Q. When did you stop attending school in SUN NING CITY?

A. At the end of last year."

(Immig. Record 55735/639, p. 24.)

and on September 5, 1930, as follows:

Q. "When did you first start to attend school at SUN NING CITY?

A. In CR.-15 (1926).

Q. Did you ever attend any other school?

A. No.

Q. Is there a school in your home village?

A. Yes.

Q. What is the name and location of it?

A. The OON MOOK SCHOOL; it stands alone at the head of the village. [19]

Q. When did you stop attending school in SUN NING CITY?

A. At the end of last year.

Q. Then did you attend that school for four years? A. Yes.

Q. Have you only been attending school four years altogether? A. Yes.

Q. Then you first started to attend school when you were about 16 years old?

A. Yes.

Q. Why didn't you attend school in your home village?

A. Because I wanted to attend school in SUN NING CITY.

Q. Did you ever at any time attend school at the OON MOOK SCHOOL in your village?

A. No.

Q. Who told you to go to school in SUN NING CITY?

A. No one, I wanted to go there myself.

Q. Did other boys of the LAN ON VILLAGE attend the WONG SHEE SCHOOL in SUN NING CITY? A. No.

Q. At what age do the other boys in your village start school at the village school?

A. I don't know, but I believe they start school between 11 and 12 years of age."

(Id., p. 27.)

Q. "Before CHIN FANG came to this country about 8 years ago, what was he doing in China?

A. He was a student in the home village, at OON MOOK SCHOOL.

Q. At what age did he start school?

A. I do not remember.

Q. Is the OON MOOK SCHOOL located in one of these ancestral halls?

A. Yes, in the NGEE DIN Ancestral Hall, located at the head of the village.

Q. Did CHIN FANG ever attend any other school than the one in your home village?

A. No.

Q. Did any of you three boys ever attend school in GONG MOON CITY? A. No.

Q. Your father states that you attended another school prior to the time that you attended school in SUN NING CITY. Why do you disagree with him?

A. I attended school a few days at the home village school about 5 years ago. I did not like the village school so I quit.

Q. Will you please tell me why you claim you have lived in China up to the time you were 16 years old without attending school at all except for those few days, when it is customary for Chinese children to be put in school at least at the age of ten?

A. My mother told me to begin school at the age of 16."

(Id., p. 29.)

II.

CHIN SUNG testified in connection with the present [20] application on September 4, 1930, as follows:

Q. "What did you do to occupy your time from the date of your departure from San Francisco on June 22, 1928, until your return to this country in July, 1930?

A. I had no occupation, just stayed around home.

Q. Did you immediately proceed to your home village after you arrived in Hongkong?

A. I stayed at Hongkong about two days before doing so.

* * * * *

Q. Did you make any visits away from your

home village while you were there on your last trip, on which occasions you remained away over night?

A. I just made one trip to Hongkong in CR.-18, the early part of the 12th month (Jan. 1930). I stayed in Hongkong only one day.

* * * * *

Q. "Where is your first wife buried?"

A. At the HAI NGAI HILL, between 1 or 2 lis back or south of my village.

Q. Is that where her remains are at the present time? A. Yes."

(Id., p. 15.)

Q. "Where is your mother buried at the present time? A. In the HAI NGAI HILL.

Q. Is she buried in the same grave with your father? A. Yes.

Q. Are your parents buried close to your first wife in that same hill?

A. About 7 or 8 jungs (70 or 80 feet) away.

* * * * *

Q. While you were there in China on your last trip, on how many occasions did you visit the graves of your parents?

A. I visited their graves during Ching Ming Festival in CR.-18 and 19 (1929 and 1930).

Q. Did you make just one visit to those graves in CR.-19 (1930)? A. Yes.

Q. On this occasion did you also visit your wife's grave? A. Yes.

Q. Name all of the persons who accompanied

you on that visit which you made to those graves this year?

A. Just the applicant accompanied me."

(Id., p. 17.)

"Q. Will you again state the location of the HAI NGAI HILL with reference to your home village?

A. It is 3 or 4 lis back of my village."

(Id., p. 33.) [21]

CHIN WING testified on September 4, 1930, as follows:

Q. "When and where were you born?

A. In ST.-3-9-15 (Nov. 5, 1911) at LAN ON VILLAGE, SND CHINA.

Q. Have you resided continuously in that village from the time of your birth until you came to this country? A. Yes."

(Id., p. 22.)

Q. "Where is your mother buried?

A. In HAI NGAI HILL, a little over one li east of my village.

Q. Is it directly east of you village?

A. No, it is northeast.

Q. Which way does your village face?

A. North.

Q. Then HAI NGAI HILL is beyond the front of your village. Is that right?

A. Yes."

(Id., p. 24.)

III.

CHIN WING testified on September 5, 1930, as follows:

Q. "You previously stated that in CR.-12 (1923) brick walls were erected for your large house. Do you mean that they took the house down completely and rebuilt it?"

A. No (changes). The whole house was taken down.

* * * * *

Q. Describe that house the way it was when you came to this country?

A. It is a regular five room brick house with tile floors in every room; the open court is paved with stone. There are two outside doors, the large door facing east; in each of the bedrooms there is a window protected by iron bars and wooden doors. There is a double skylight in each bedroom and a single skylight in each kitchen, all covered with glass."

(Id., p. 29.)

CHIN SUNG testified on September 4, 1930, as follows:

Q. "After your arrival in China on your last trip, which room in your house did you occupy?"

A. The parlor of my house.

Q. Who occupied that parlor with you?

A. My wife, my son CHIN GAY and my daughter.

Q. Which room did the family of your son CHIN TONG live in? [22]

A. "They lived in the large door bedroom, or east side bedroom.

Q. Who occupied the small door bedroom?"

A. CHIN WING and his wife.

Q. When you arrived at home CHIN WING had not yet married, had he? A. No.

Q. Was that room vacant when you first came home?

A. Yes. When my second son CHIN FANG was in the village he lived in that room with his family. I understand that that room was vacant from the time his family moved away at the end of CR.-15 (1926)."

(Id., p. 19.)

Q. "Describe your house in LAN ON VILLAGE?

A. The old house was torn down and rebuilt in CR.-12 (1923) after I came to this country in CR.-11 (1922). It is a regular five room one-story brick building with tile floors, with two outside entrances, the large door facing east, a window in each of the bedrooms facing the alleys, provided with wooden shutters and iron bars, no glass panes; a single skylight in each of the kitchens, covered with a piece of board. I do not know how many skylights there are in the bedrooms because I did not enter them while I was in China during my last trip. They are occupied by my daughters-in-law and I am not supposed to enter them.

Q. One of those bedrooms was empty for a time, before CIN WING got married?

A. I did not enter that room at all."

(Id., p. 20.)

Q. "What is the marriage name of this applicant, CHIN WING?"

A. CHIN NGEE NGEW.

Q. When and where was he married?

A. CR.-17-12-6 (Jan. 16, 1929) at LAN ON VILLAGE."

(Id., p. 16.)

United States Attorney,
Attorney for Respondent.

[Endorsed]: Filed March 9, 1931. [23]

No. 20,464-S.

PETITIONER'S EXHIBIT "A."

Findings and Decision of Board of Special Inquiry.
29394/3-23. 9-5-30. pg. 22.

SUMMARY.

BY CHAIRMAN:

This applicant claims to be 20 years old, born ST.-3-9-15 (Nov. 5, 1911), at the LAN ON VILLAGE, S. N. D. CHINA. He is applying for admission to this country as a *bona fide* natural son of CHIN SUNG, *alias* CHIN NGEE MOON, a native born citizen of the United States whose status as such has been conceded by this Service on numerous occasions. I believe it will have to be conceded at this time.

The alleged father has made five trips to China. He departed on his third trip to China on January 9, 1911, and returned April 24, 1912. This trip establishes the presence of the alleged father in

China at a time to make possible for him to render paternity to a child of the birth date claimed for this applicant. When the alleged father returned from this trip to China he claimed to have been married to LOK SHEE in KS. 24 (1898), and to have had three sons. He gave the data concerning the third son as follows: CHIN WING, 2, born ST. 3-9-15 (Nov. 5, 1911). The alleged father has consistently claimed a son of similar name and birth date ever since that time. He departed on his fourth trip to China on August 21, 1920, and returned September 13, 1922. He departed on his last trip to China June 22, 1928, and returned in company with the applicant on July 23, 1930.

The alleged father has been married twice, claiming his first wife, the mother of this applicant, died in CR.-8-10 (Nov. 1919), and that he remarried to LOK SHEE on CR. 9-9-21 (Nov. 1, 1920). He claims to have a son and a daughter by his second wife. He has already secured the admission of his oldest alleged sons, CHIN TONG was admitted to this country in 192. He has made one trip to China, departed December 22, 1917, and returning July 16, 1919. The second alleged son CHIN FANG was admitted to this country in October, 1922. He secured Form 430 and departed for China February 20, 1926, and it is claimed he is now in Canton City studying at the University there.

Statements have been taken from the alleged father and the applicant. The alleged p. l. brother CHIN TONG is going to give his testimony at

Denver, Colorado. The attorney of record has furnished his address as the Grandview Cafe, 1111 Broadway St., Denver, Colorado. Before this case is finally decided I believe the entire record should be referred to our Denver Office for the purpose of accepting the testimony of CHIN TONG. He should present his affidavit at that time.

I therefore move that final action in this case be deferred pending the result of this hearing of CHIN TONG at Denver, Colorado, and the return of all evidence to this station.

By Member McNAMARRA: I second the motion.

By Member DOWNIE: I concur. [24]

By CHAIRMAN: This case was deferred by the Board of September 5, 1930, for the purpose of securing the testimony of CHIN TONG, the alleged p. l. brother, who was to testify at Denver, Colorado. The entire record was referred to our Denver Office on Sept. 11th. On Sept. 15th the testimony of CHIN TONG was obtained and under date of Sept. 17th the entire record was returned to this Office and is now before the Board for its consideration. As the alleged father had not yet been physically compared with the applicant he has been brought over today for this purpose. NOTE: The applicant and the alleged father have now been brought into the Board Room.

By CHAIRMAN to BOARD MEMBERS: What is the individual opinion of each member of the Board as to the resemblance, if any, between the applicant and his alleged father?

By CHAIRMAN: I note no resemblance between these two persons before me.

By Member HECKERT: I see no resemblance whatsoever between the applicant and his alleged father.

By Member DOWNIE: I do not note any resemblance that would lead me to believe that the two persons before me are father and son as claimed.

By CHAIRMAN: (Applicant and alleged father dismissed from Board Room.)

This applicant's and the alleged father's testimony has been compared with that of the p. l. alleged brother. Disagreements and discrepancies have arisen among which are the following:

The alleged father states (Pgs. 6, 7, and 22) that this applicant has been attending school in Sun Ning City, that he does not know what year the applicant first started to attend school there; that the applicant also attended the Oon Mook School *not from* the head of his village. He further stated the applicant has never attended any other school besides these two to his knowledge. He further stated that the applicant first started school at either 7 or 8 years of age; that he himself was in this country when the applicant started to go to school. It is claimed that the applicant is now 20 years old, which would make it 12 or 13 years ago that he first started school, according to the alleged father. This would be 1917 or 1918. A reference to the file of the alleged father shows he was in the United States from April, 1913, to August 21, 1920, when he departed for China on his second last trip,

returning Sept. 13, 1922. On page 22 the alleged father was asked how he knew that this applicant first started to school when he was 7 or 8 years old and he answered that he did not know for certain that he merely guessed at that. He further stated that during his visits that he made to China this applicant was actually attending school in the home village, except on his last trip when the applicant was attending school in Sunning City. He further stated that during the entire period of time that he was in China on his second last trip from 1920 to 1922 the applicant attended school in the home village; that at that time there was only one school in his village and that was the Oon Mook School, and that the applicant had a summer vacation in that school. The alleged brother CHIN TONG don't know anything about the applicant's schooling. APPLICANT states (pgs. 15, 16, & 18) that he has been attending school in Sunning City ever since he first started [25] school there in CR. 15 (1926). He was asked if he ever attended any other school and he answered "No." He further stated there was a school in his home village named Oon Mook School which stands alone at the head of the village. He further claimed he stopped attending school in Sunning City at the end of last year and that he attended that school for four years. He was asked if he only attended school four years altogether and he answered "Yes." He was asked if he first started to attend school when he was about 16 years old and he answered "Yes." He was asked why he didn't attend school in his home vil-

lage and he stated because he wanted to attend school in Sun Ning City. He was further asked if he ever at any time attended school at the Oon Mook School in his village and he answered "No." He was confronted with the fact that he disagreed with his father on this point and then he attempted to change his testimony slightly by stating that he attended school in the home village for a "few days" about five years ago but did not like it and so he quit. He was asked to state the reason why he claimed to have lived in China up to the time he was 16 years old without attending school at all except for those few days, when it was customary for Chinese children to be put in school at least at the age of ten years, and his answer was that his mother told him to begin school at the age of 16. If these two persons were father and son as claimed there certainly would be no such disagreement as this in the record.

The alleged father states (pg. 4) that his first wife (applicant's mother) is buried at the Hai Ngai Hill, between 1 and 2 lis back or south of his village. He further stated his parents were also buried in that hill. On page 22, he was asked to again state the location of the Hai Ngai Hill with reference to his home village and he stated it was 3 or 4 lis back of his village. Applicant states (pg. 13) that his own mother was buried in Hai Ngai Hill, a little over one li east of his village. He was asked if it was directly east of his village and he stated it was northeast. He further stated his village

faced north and that Hai Ngai Hill was beyond the front of his village.

A peculiar situation arose in regard to the description of the alleged father's house in the home village. When the alleged father was questioned (pg. 9) in regard to his house he stated he did not know how many skylights there were in the bedrooms because he did not enter them while he was in China during his last trip; that they were occupied by his daughters-in-law and he was not supposed to enter them. His attention was called to the fact that one of those bedrooms was empty for a time before CHIN WING, the applicant was married and he stated that he did not enter that room at all. Our record show the alleged father departed for China on June 22, 1928, and that CHIN WING was married Jan. 16, 1929. There is a period of about six months between these two dates after allowing nearly a month for the alleged father to get home. It appears preposterous to me for the alleged father to state that he did not enter that bedroom at all during about six months before the applicant was married. This situation when taken with others that appeared in the record lead me strongly to the opinion that the principals in this case were testifying from a prepared story on certain happenings and when given questions that they were not prepared for they became evasive and tried to keep from answering definitely.

There are other disagreements that may be found by reference to the record. [26]

From all the evidence adduced and presented in this case I am of the opinion that this applicant has not reasonably established that he is actually a *bona fide* natural son of CHIN SUNG, *alias* CHIN NGEE MOON, a native born citizen of the United States and for that reason and for the further reason that the "burden of proof" as required by Section 23 of the Immigration Act of 1924 has not been sustained I move that this applicant be denied admission to this country and ordered deported to the country when he came.

By Member HECKERT: I second the motion.

By Member DOWNIE: I concur.

[Endorsed]: Filed Dec. 19, 1930. [27]

At a stated term of the Southern Division of the United States District Court for the Northern District of California, held at the courtroom thereof, in the City and County of San Francisco, on Monday, the 9th day of March, in the year of our Lord one thousand nine hundred and thirty-one. Present: The Honorable A. F. ST. SURE, Judge.

[Title of Court and Cause.]

MINUTES OF COURT—MARCH 9, 1931—
ORDER SUBMITTING APPLICATION ON
BRIEFS.

The application for writ of habeas corpus (by order to show cause) came on to be heard. A. E.

Bagshaw, Esq., Asst. U. S. Atty., appearing for respondent, and no one appearing for petitioner. Mr. Bagshaw filed the record of the Bureau of Immigration and excerpts of testimony. After hearing Mr. Bagshaw, ORDERED application submitted on briefs to be filed in 10 and 5 days. [28]

[Title of Court and Cause.]

ORDER DENYING PETITION FOR WRIT OF
HABEAS CORPUS, ETC.

This matter having been heard on the application for a writ of habeas corpus (by order to show cause), and having been argued and submitted,—

IT IS ORDERED, after a full consideration, that the application for a writ of habeas corpus be, and the same is hereby DENIED; that the petition be, and the same is hereby DISMISSED; that the order to show cause be, and the same is hereby DISCHARGED; and that the applicant be deported by the United States Immigration Authorities at San Francisco, California.

Dated: May 25, 1931.

A. F. ST. SURE,
U. S. District Judge.

[Endorsed]: Filed May 25, 1931. [29]

[Title of Court and Cause.]

NOTICE OF MOTION FOR REHEARING.

To JOHN D. NAGLE, Esq., Commissioner of Immigration for the Port of San Francisco, Respondent, and GEORGE J. HATFIELD, Esq., United States Attorney, Attorney for Respondent:

YOU AND EACH OF YOU WILL PLEASE TAKE NOTICE that hereafter, to wit, on Monday, the 8th day of June, 1931, at 10 o'clock A. M., or as soon thereafter as counsel may be heard, at the courtroom of the above-entitled court, at the Post-office Building, San Francisco, California, the undersigned will move the above-entitled court for a rehearing of the above-entitled cause, to the end that the order and judgment heretofore made and entered denying a petition for a writ of habeas corpus may be vacated and that an order and judgment granting the petition may be made and entered herein.

Said motion will be based upon the ground that the order and judgment heretofore made and entered denying a petition for a writ of habeas corpus was made and entered by mistake of law and upon all the files, proceedings and documents herein and upon this notice of motion.

Dated this 29th day of May, 1931.

STEPHEN M. WHITE,
Attorney for Petitioner. [30]

CERTIFICATE OF COUNSEL.

I, the undersigned, counsel for petitioner in the above-entitled cause, hereby certify that in my judgment the foregoing motion for a rehearing of the said cause is well founded in point of law as well as in fact and that said motion is not interposed for delay.

Dated this 29th day of May, 1931.

STEPHEN M. WHITE,
Attorney for Petitioner.

[Endorsed]: Service and receipt of a copy of the within notice of motion for rehearing, is hereby admitted this 29th day of May, 1931.

GEORGE J. HATFIELD,
United States Attorney.
Attorneys for Respondent.

Filed May 29, 1931. [31]

At a stated term of the Southern Division of the United States District Court for the Northern District of California, held at the courtroom thereof, in the City and County of San Francisco, on Monday, the 8th day of June, in the year of our Lord one thousand nine hundred and thirty-one. Present: The Honorable A. F. ST. SURE, District Judge, et al.

[Title of Court and Cause.]

MINUTES OF COURT—JUNE 8, 1931—ORDER
DENYING MOTION FOR WRIT OF HA-
BEAS CORPUS.

The motion for rehearing and/or for reconsideration of the application for a writ of habeas corpus came on to be heard. After argument, IT IS ORDERED that said motion be and the same is hereby denied. [32]

[Title of Court and Cause.]

NOTICE OF APPEAL.

To the Clerk of the Above-entitled Court, to JOHN D. NAGLE, Commissioner of Immigration, and to GEORGE J. HATFIELD, Esq., United States Attorney, His Attorney:

You and each of you will please take notice that Louie Yee Hong, the petitioner in the above-entitled matter, hereby appeals to the United States Circuit Court of Appeals for the Ninth Circuit, from the order and judgment rendered, made and entered herein on May 25, 1931, denying the petition for a writ of habeas corpus filed herein.

Dated this 18th day of June, 1931.

STEPHEN M. WHITE,
Attorney for Appellant. [33]

[Title of Court and Cause.]

PETITION FOR APPEAL.

Comes now Louie Yee Hong, the petitioner in the above-entitled matter, through his attorney, Stephen M. White, Esq., and respectfully shows:

That on the 25th day of May, 1931, the above-entitled court made and entered its order denying the petition for a writ of habeas corpus, as prayed for, on file herein, in which said order in the above-entitled cause certain errors were made to the prejudice of the appellant herein, all of which will more fully appear from the assignment of errors filed herewith.

WHEREFORE, the appellant prays that an appeal may be granted in his behalf to the Circuit Court of Appeals of the United States for the Ninth Circuit thereof, for the correction of the errors as complained of, and further, that a transcript of the record, proceedings and papers in the above-entitled cause, as shown by the praecipe, duly authenticated, may be sent and transmitted to the said United States Circuit Court of Appeals for the Ninth Circuit thereof, and further, that the said appellant be held within the jurisdiction of this court during the pendency of the appeal herein, so that he may be produced in execution of whatever judgment may be finally entered herein.

Dated at San Francisco, California, June 18, 1931.

STEPHEN M. WHITE,
Attorney for Appellant. [34]

[Title of Court and Cause.]

ASSIGNMENT OF ERRORS.

Now comes the appellant, Chin Wing, through his attorney, Stephen M. White, Esq., and sets forth the errors he claims the above-entitled court committed in denying his petition for a writ of habeas corpus, as follows:

I.

That the court erred in not granting the writ of habeas corpus and discharging the appellant, Chin Wing, from the custody and control of John D. Nagle, Commissioner of Immigration at the Port of San Francisco.

II.

That the court erred in not holding that it had jurisdiction to issue the writ of habeas corpus as prayed for in the petition on file herein.

III.

That the court erred in not holding that the allegations set forth in the petition for a writ of habeas corpus were sufficient in law to justify the granting and issuing of a writ of habeas corpus.
[35]

IV.

That the court erred in holding that the claimed discrepancies in the testimony, as a result of the evidence adduced before the immigration authorities, were sufficient, in law, to justify the conclusion of the immigration authorities that the claimed

relationship between the alleged father of appellant and appellant did not exist.

V.

That the court erred in not holding that the claimed discrepancies in the testimony, as a result of the evidence adduced before the immigration authorities, were not sufficient, in law, to justify the conclusion of the immigration authorities that the claimed relationship between the alleged father of appellant and appellant did not exist.

VI.

That the court erred in holding that the claimed discrepancies, or any of them, in the testimony, as a result of the evidence adduced before the immigration authorities, were not subject to a reasonable explanation and reconcilable

VII.

That the court erred in not holding that any and all of the claimed discrepancies in the testimony, as a result of the evidence adduced before the immigration authorities, were subject to a reasonable explanation and reconcilable.

VIII.

That the court erred in holding that the evidence adduced before the immigration authorities was not sufficient, in kind and character, to warrant a finding by the immigration authorities that the claimed relationship between the alleged father of appellant and appellant existed.

IX.

That the court erred in not holding that the evidence adduced before the immigration authorities was sufficient, in kind and [36] character, to warrant a finding by the immigration authorities that the claimed relationship between the alleged father of appellant and appellant existed.

X.

That the court erred in holding that there was substantial evidence before the immigration authorities to justify the conclusion that the claimed relationship between the alleged father of the appellant and the appellant did not exist.

XI.

That the court erred in not holding that there was no substantial evidence before the immigration authorities to justify the conclusion that the claimed relationship between the alleged father of the appellant and the appellant did not exist.

XII.

That the court erred in holding that the appellant was accorded a full and fair hearing before the immigration authorities.

XIII.

That the court erred in not holding that the appellant was not accorded a full and fair hearing before the immigration authorities.

WHEREFORE, appellant prays that the said order and judgment of the United States District Court for the Northern District of California made, given

and entered in the office of the Clerk of said court on the 25th day of May, 1931, denying the petition for a writ of habeas corpus, be reversed and that he be restored to his liberty and go hence without day.

Dated at San Francisco, California, June 18, 1931.

STEPHEN M. WHITE,
Attorney for Appellant. [37]

[Endorsed]: Due service and receipt of a copy of the within notice of appeal, etc., is hereby admitted this 18th day of June, 1931.

GEO. J. HATFIELD,
United States Attorney,
Attorneys for Appellee.

Filed June 18, 1931. [38]

[Title of Court and Cause.]

ORDER ALLOWING APPEAL.

It appearing to the above-entitled court that Louie Yee Hong, the petitioner herein, has this day filed and presented to the above court his petition praying for an order of this court allowing an appeal to the United States Circuit Court of Appeals for the Ninth Circuit from the judgment and order of this court denying a writ of habeas corpus herein and dismissing his petition for said writ, and good cause appearing therefor,—

IT IS HEREBY ORDERED that an appeal be and the same is hereby allowed as prayed for herein; and

IT IS HEREBY FURTHER ORDERED that the Clerk of the above-entitled court make and prepare a transcript of all the papers, proceedings and records in the above-entitled matter and transmit the same to the United States Circuit Court of Appeals for the Ninth Circuit within the time allowed by law; and

IT IS FURTHER ORDERED that the execution of the warrant of deportation of said Chin Wing, be and the same is hereby stayed pending this appeal and that the said Chin Wing, be not removed from the jurisdiction of this court pending this appeal.

Dated at San Francisco, California, June 18, 1931.

A. F. ST. SURE,
United States District Judge. [39]

[Endorsed]: Due service and receipt of a copy of the within order allowing appeal is hereby admitted this 18th day of June, 1931.

GEO. J. HATFIELD,
United States Attorney,
Attorneys for Appellee.

Filed June 18, 1931. [40]

[Title of Court and Cause.]

ORDER TRANSMITTING ORIGINAL EXHIBITS.

GOOD CAUSE APPEARING THEREFOR, IT IS HEREBY ORDERED that the Immigration Records filed as exhibits herein, may be transmitted by the Clerk of the above-entitled court to

and filed with the Clerk of the United States Circuit Court of Appeals for the Ninth Circuit to be taken as a part of the record on appeal in the above-entitled cause with the same force and effect as if embodied in the transcript of record and so certified by the Clerk of this court.

Dated this 18th day of June, 1931.

A. F. ST. SURE,
United States District Judge.

[Endorsed]: Due service and receipt of a copy of the within order transmitting original exhibits is hereby admitted this 18th day of June, 1931.

GEO. J. HATFIELD,
United States Attorney,
Attorney for Appellee.

Filed June 18, 1931. [41]

[Title of Court and Cause.]

PRAECIPE FOR TRANSCRIPT OF RECORD.

To the Clerk of Said Court:

Sir: Please issue copies of following papers for transcript on appeal:

1. Petition for writ of habeas corpus.
2. Order to show cause.
3. Appearance of respondent, etc.
4. Respondent's memorandum of excerpts of testimony from the original immigration record.
5. Petitioner's Exhibit "A"—Findings and decision of Board of Special Inquiry.

6. Minute order respecting introduction of original immigration records.
7. Order denying petition for writ of habeas corpus.
8. Notice of motion for rehearing.
9. Order denying motion for rehearing.
10. Notice of appeal.
11. Petition for appeal.
12. Assignment of errors.
13. Order allowing appeal.
14. Order transmitting original immigration records.
15. Praecipe.

STEPHEN M. WHITE,
Attorney for Appellant.

[Endorsed]: Filed July 2, 1931. [42]

[Title of Court.]

CERTIFICATE OF CLERK U. S. DISTRICT
COURT TO TRANSCRIPT OF RECORD.

I, Walter B. Maling, Clerk of the United States District Court, for the Northern District of California, do hereby certify that the foregoing 42 pages, numbered from 1 to 42, inclusive, contain a full, true, and correct transcript of the records and proceedings in the Matter of Chin Wing, on Habeas Corpus, No. 20,464-S., as the same now remain on file and of record in my office.

I further certify that the cost of preparing and certifying the foregoing transcript of record on ap-

peal is the sum of Fourteen Dollars and Ninety-five Cents (\$14.95), and that the said amount has been paid to me by the attorney for the appellant herein.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said District Court, this 11th day of July, A. D. 1931.

[Seal]

WALTER B. MALING,

Clerk.

By C. M. Taylor,

Deputy Clerk. [43]

[Title of Court and Cause.]

CITATION ON APPEAL.

United States of America,—ss.

The President of the United States, to JOHN D. NAGLE, Commissioner of Immigration, Port of San Francisco, and GEORGE J. HATFIELD, United States Attorney, GREETING:

You are hereby cited and admonished to be and appear at a United States Circuit Court of Appeals for the Ninth Circuit, to be holden at the City of San Francisco, State of California, within 30 days from the date hereof, pursuant to an order allowing an appeal, of record in the Clerk's office of the United States District Court for the Northern District of California, wherein Chin Wing, is appellant and you are appellee, to show cause, if any, why the decree rendered against the said appellant, as in the said order allowing appeal men-

tioned, should not be corrected and why speedy justice should not be done to the parties in that behalf.

WITNESS, the Honorable A. F. ST. SURE, United States District Judge for the Southern Division of the Northern District of California, this 18th day of June, 1931.

A. F. ST. SURE,
United States District Judge. [44]

Due service and receipt of a copy of the within citation on appeal, is hereby admitted this 18th day of June, 1931.

GEORGE J. HATFIELD.
GEORGE J. HATFIELD,
United States Attorney
Attorneys for Appellee.

Filed Jun. 18, 1931, 4:40 P. M. [45]

[Endorsed]: No. 6529. United States Circuit Court of Appeals for the Ninth Circuit. Chin Wing, Appellant, vs. John D. Nagle, Commissioner of Immigration, Port of San Francisco, Appellee. Transcript of Record. Upon Appeal from the United States District Court for the Northern District of California, Southern Division.

Filed July 21, 1931.

PAUL P. O'BRIEN,
Clerk of the United States Circuit Court of Appeals for the Ninth Circuit.

By Frank H. Schmid,
Deputy Clerk.

